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June 3, 2004

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Art Unit 1644

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Re:

U.S. Utility Patent Application

Application No. 09/458,298; Filed: December 10, 1999

For: Inducing Cellular Immune Responses to MAGE 2/3 Using Peptide and

**Nucleic Acid Compositions** 

Inventor:

FIKES et al.

Our Ref:

2060.0130000/HCC/J-H

Sir:

Transmitted herewith for appropriate action are the following documents:

- 1. Reply to Requirement for Election of Species; and
- 2. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Helene C. Carlson Agent for Applicant

Registration No. 47,473

HCC/J-H/tis 270997v1

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FIKES et al.

Appl. No.: 09/458,298

Filed: December 10, 1999

For: Inducing Cellular Immune
Responses to MAGE 2/3 Using
Peptide and Nucleic Acid

**Compositions** 

Confirmation No.: 8697

Art Unit: 1644

Examiner: Schwadron, R.

Atty. Docket: 2060.0130000/HCC/J-H

## Reply to Requirement for Election of Species

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated May 7, 2004 requesting several elections of species, Applicants hereby provisionally elect:

- (a) the peptide of claim 46 (9 amino acids) (claims 41, 42 and 46 are readable thereon), and
  - (b) a peptide fused to a linker (claims 41 and 50 are readable thereon).

Claim 41 is generic. Applicants assert the right to claim additional species in the event that a generic claim thereto is found to be allowable in accordance with 37 C.F.R. § 1.141(a).

All of the above-listed elections are made without traverse'.

<sup>&#</sup>x27;Applicants note that the Examiner has indicated in the Office Action dated May 7, 2004 that claim 49 was withdrawn from further consideration as being drawn to a nonelected species. However, claim 49 depends from claim 41 which is drawn to an elected species. Applicants believe the withdrawal of claim 49 to be in error.

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The above-listed elections of species are made without prejudice to or disclaimer

of the other claims or inventions disclosed. Consideration and allowance of all pending

claims is respectfully requested.

Applicants note that peptide KVAELVHFL, referred to as SEQ ID NO:711 in

pending claims 41 and 42, is the same peptide referred to as SEQ ID NO:367 in the

Reply to Restriction Requirement filed December 3, 2003. Applicants have not changed

the election of species with respect to the peptide KVAELVHFL by the filing of new

claims 41 and 42 referring to SEQ ID NO:711 instead of SEQ ID NO:367.

It is not believed that extensions of time are required, beyond those that may

otherwise be provided for in accompanying documents. However, if additional

extensions of time are necessary to prevent abandonment of this application, then such

extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees

required therefor are hereby authorized to be charged to our Deposit Account No.

19-0036.

Respectfully submitted,

Melenellactron

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Helene C. Carlson

Agent for Applicants

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Date: \_ 6/3/04

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